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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,148	10/04/2001	Kimmo Hamynen	944-003.115	4944

4955 7590 07/13/2004

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EXAMINER

SMITH, CREIGHTON H

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 07/13/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

972148

Applicant(s)

Kimmol Hämylä

Examiner

Smith, C. H.

Group Art Unit

2645

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 2645 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 21 June '04.
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-24 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☒ Claim(s) 9-12, 21-24 is/are allowed.
- ☒ Claim(s) 1, 3-5, 13-17, 20 is/are rejected.
- ☒ Claim(s) 2, 6, 7, 8, 18, 19 is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_.

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-5, 13-17, 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Simmons et al (U.S. Patent #6320595) or Brewer (U.S. Publication # 2003/0034934 A1).

Simmons discloses in col. 6, lines 25-27, “[a] wide variety of application areas are possible including: . . . message construction using server clip-art . . . .” Therefore, Simmons et al do disclose the use of clip-art incorporated within a text messaging sent between mobile, wireless, or cellular users.

Simmons et al disclose a system of transmitting pictures/graphic images between mobile phones as part of SMS messages. Simmons specifically discloses in col. 2, lines 6-9, “[B]y specifying the image in the form of an overlaid arrangement of objects (which may include points, polygons, and text strings) . . . Simmons et al disclose text messaging in col. 4, line 40; col. 1, line 20; and handwritten text in col. 6, line 33. This shows Simmons’ contemplation of the use of graphic images along with an SMS message. Simmons et al disclose in col. 6, lines 18-24 that touch-screens 34 are highly suited to graphical displays. They provide not only a method for object selection but also for object creation. Such an input mechanism coupled with the encoding

mechanism would allow graphical information to be packed into a message that could be sent and decoded at the receiver to enable graphics to be exchanged between mobile devices. Simmons et al also disclose the "interactivity" between receivers of the images @ col. 2, lines 12-20. Simmons further discloses the use of touch screens, col. 2, line 67-col. 3, line 1. Touch screens are the same as applicant's soft keys. Simmons discloses that the graphical images are "clip-art", col. 6, line 27. Transceiver 22 is shown for transmitting and receiving of textual and graphical messaging between 2 users. Simmons discloses neither a picture manager, gallery or a picture folder where the clip-art/pictures are held in the phone. However, Simmons does disclose a memory (30), which holds and programs for the hand-held mobile device, and a store 38 which contains the command word codes that enables the CPU 26 to interpret received commands and recreate the encoded image. It is deemed that Simmons memory 30 and store 38 are the functional equivalent of applicants manager, gallery and folder because in Simmons this is where the graphical icons/pictures are stored so that the user may recall them by the soft keys/touch screen apparatus on the telephone's keypad. For claim 13, Simmons et al discloses, cols. 1-2, lines 63-68 & 1-, " a method for generating . . . a graphic image composing the image from a plurality of component objects . . . ." Therefore, by Simmons disclosing that the user can compose an image is meeting applicant's limitation in claim 13 of the user "creating" a new clip-art picture because to "create" also means to "compose."

Similarly, Brewer discloses the use of text and graphics display, [0036], on a display device 10. A clip art graphics button 140 permits the user to draw from a large

library /database of clip art graphics to be placed on wireless display device 220.

Brewer discloses that the display device 10 and the display screen 30 are wirelessly connected to one in paragraph [0059] when brewer discloses that the display computer 10 and the display screen 30 can "have built-in cell phone technology to communicate between the 2 devices". Built-in cell phone technology means that both the display computer and the display screen have transceivers built into them. Brewer discloses the soft key in claim 1.

Claims 2, 6, 7, 8, 18, 19, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 9-12, 21-24 are allowed.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

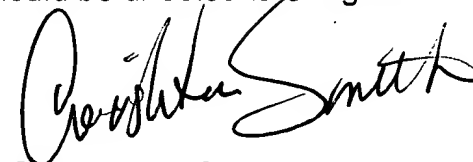
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Art Unit: 2645

Any inquiry concerning this communication should be directed to Creighton h  
Smith at telephone number 308-2488.

07 JULY '04

A handwritten signature in black ink, appearing to read "Creighton h Smith". The signature is written in a cursive, flowing style with a large initial "C".

Creighton h Smith  
Primary Examiner  
Art Unit 2645